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ABSTRACT

Designed for middle school through high school students, this unit contains eight lesson plans that focus on Arkansas state law. The state lessons correspond to lessons in the volume, "Antidote: Civic Responsibility. Drug Avoidance Lessons for Middle School & High School Students." Developed to be presented by educators, law student, or attorneys, the state lessons are interactive and sequential, although individual lessons can stand alone. The document includes legal information about driving while intoxicated, drug offenses, sentencing, and drug and alcohol statutes written specifically to combat juvenile abuse. (RJC)

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Antidote: Civic Responsibility

Arkansas Law

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Lesson 1

1. **Has Aimee violated any State laws? Have her parents?**

   Aimee has not broken any law, because there is no law which makes a minor liable for an unintentionally dangerous act toward another minor. However, if it is found that the parents are putting Aimee or her sister at risk of harm by leaving the children alone, their behavior may constitute child neglect as defined under Ark. Code Ann. § 9-30-103(5)(A)(iii) and (5)(B) (Michie 1993): "'Neglect' means: [f]ailure to provide, by those legally responsible for [m]edical, surgical, or any other care necessary for [the child's] well-being; or [a]ny maltreatment of the child. The term includes both acts and omissions."

2. **Does State statute allow 17-year-old Tyrell to drink a glass of wine with his dinner without his parents' consent?**

   Tyrell may drink the wine only with his parents' permission and if one of them is present. Under Ark. Code Ann. § 3-3-203(a)(1) (Michie 1993), "[i]t shall be unlawful for any person under the age of twenty-one (21) years to purchase or have in possession any intoxicating liquor, wine, or beer"; however, § 3-3-202 (Michie 1993), which prohibits selling, giving, procuring or in any way furnishing any alcoholic beverage to anyone under 21, makes a specific exception for "the serving of such to one's family." If neither of his parents is present to serve him, Tyrell is in possession of the wine in violation of § 3-3-203.

3. **Is Maria violating any law when she tells her roommates whom to call to buy marijuana?**

   Whether Maria's actions constitute a crime depends largely on the extent of her involvement with the actual seller of the marijuana. If Maria is merely telling her friends the identity of someone she believes sells marijuana, she is probably not violating any statute. If she is acting to facilitate a drug purchase by her friends, i.e. is acting according to a plan to sell the drugs or receives some consideration for her participation, she may be considered to have constructive possession of the drugs and could be charged with possession, even though she does not have physical possession. Under Ark. Code Ann. § 5-64-401(a) (Michie 1993), it is unlawful to manufacture or deliver or possess with intent to manufacture or deliver a controlled substance. Marijuana is classified under Ark. Code Ann. § 5-64-215 (Michie 1993) as a Schedule VI controlled substance; under § 5-64-401(a)(1)(iv), violation of § 5-64-401(a) by possession of less than 10 pounds of a Schedule VI substance is a felony punishable by four to 10 years' imprisonment and/or a fine of up to $25,000.

If Maria is involved in this way, she may also be guilty of conspiracy under Ark. Code Ann. § 5-3-401 (Michie 1993), which defines conspiracy as when a person, "with the purpose of promoting or facilitating the commission of a criminal offense, agrees with another person or other persons that one (1) or more of them will engage in conduct that constitutes that offense; or that he will aid in the planning or commission of that criminal offense; and he or another person with whom he conspires does any overt act in pursuance of the conspiracy." In addition, "[w]here the combination of persons to do an unlawful act is shown, and the plan terminates in a crime, each person is liable for the acts of the others undertaken in furtherance of the plan." Lee v. State, 27 Ark. App. 198, 770 S.W.2d 148 (1989), cert. denied, 493 U.S. 847, 110 S. Ct. 142, 107 L. Ed. 2d 101 (1989). Maria is also liable for prosecution under Ark. Code Ann. § 5-2-402 (Michie 1993), which makes an accomplice criminally liable for the conduct of the person committing the criminal offense. An accomplice is defined under Ark. Code Ann. § 5-2-403 (Michie 1993) as one who solicits, advises, encourages, or coerces another to commit a criminal act, or aids, agrees to aid, or attempts to aid another in planning or committing a criminal act.

If Maria is participating in one of these ways, she may also be violating federal law under 18 U.S.C.A. § 371 (West 1993), which prohibits conspiracy to commit any offense against the United States, and 21 U.S.C.A. § 846 (West 1993), which prohibits any attempt or conspiracy to commit any violation of federal drug control statutes.

4. **Have Adam and Alex broken any laws other than those against drinking and fighting?**

The twins have broken several laws in addition to those regarding drinking and fighting. They are certainly guilty under Ark. Code Ann. § 5-71-212 (Michie 1993) of public intoxication and under § 5-71-207 (Michie 1993) of disorderly conduct. These offenses are Class C misdemeanors; for a Class C misdemeanor, the sentence shall not exceed 30 days imprisonment. Ark. Code Ann. § 5-4-401 (Michie 1993).

Depending on the circumstances of the fight, the twins may also have committed or been victims of battery or assault. The charges may include first-degree battery, causing serious injury to another person under circumstances manifesting extreme indifference to the value of human life, a Class B felony; second-degree battery, causing serious physical injury to another person with the purpose of causing physical injury, a Class D felony; third-degree battery, recklessly causing physical injury to another person, a Class A misdemeanor; aggravated assault, purposely engaging in conduct that creates a substantial danger of death or seriously injury to another person under circumstances manifesting extreme indifference to the value of human life,

a Class D felony; first-degree assault, recklessly engaging in conduct which creates a substantial risk of death or serious physical injury to another person, a Class A misdemeanor; second-degree assault, recklessly engaging in conduct which creates a substantial risk of physical injury to another person, a Class B misdemeanor; third-degree assault, purposely creating apprehension of imminent physical injury in another person, a Class C misdemeanor; or harassment, defined in part as in a public place repeatedly insulting, taunting, or challenging another in a manner likely to provoke a violent or disorderly response, a Class A misdemeanor. Ark. Code Ann. §§ 5-13-201, 5-13-202, 5-13-203, 5-13-204, 5-13-205, 5-13-206, 5-13-207, 5-71-208 (Michie 1993). For a Class A misdemeanor, the sentence shall not exceed one year; for a Class B misdemeanor, not more than 90 days; for a Class C misdemeanor, not more than 30 days. For a Class B felony, the sentence shall not be less than five years nor more than 20; for a Class C felony, not less than three years nor more than 10; for a Class D felony, the sentence shall not exceed six years. Ark. Code Ann. § 5-4-401 (Michie 1993).

More seriously, the twins may be charged with second-degree murder, defined as when a person "knowingly causes the death of another person under circumstances manifesting extreme indifference to the value of human life; or with the purpose of causing serious physical injury to another person, he causes the death of any person." Second-degree murder is a Class B felony, punishable by a sentence of five to 20 years. Ark. Code Ann. §§ 5-10-103, 5-4-401 (Michie 1993). Manslaughter, a lesser offense, is also a possible charge; manslaughter is defined in part as recklessly causing the death of another person. Manslaughter is a Class C felony, punishable by a sentence of three to 10 years. Ark. Code Ann. §§ 5-10-104, 5-4-401 (Michie 1993).

Under Ark. Code Ann. § 5-2-207 (Michie 1993), self-induced intoxication is not a defense to an offense which requires capacity to form intent or to appreciate the criminality of the conduct. This section defines intoxication as "a disturbance of mental or physical capacities resulting from the introduction of alcohol, drugs, or other substances into the body." Voluntary intoxication is no longer available as a defense to criminal prosecutions. White v. State, 290 Ark. 130, 717 S.W.2d 784 (1986); Sullinger v. State, 310 Ark. 690, 840 S.W.2d 797 (1992); Spohn v. State, 310 Ark. 500, 837 S.W.2d 873 (1992).

5. **Has Jose violated any State law even though he is not drinking? Has Carlos or TJ violated any State law?**

If any alcoholic beverage is consumed in the car, Jose, TJ and Carlos are all violating several laws. As minors, Jose and TJ are violating Ark. Code Ann. § 3-3-203(a)(1) (Michie 1993), which provides: "It shall be unlawful for any person under the age of twenty-one (21) years to purchase or have in possession

any intoxicating liquor, wine, or beer." Even though Jose is not drinking, because the alcohol is in his car it may be presumed to be in his possession. Conviction under this section is a misdemeanor punishable by a fine between $10 and $500; in addition, violators may be required to write themes or essays on intoxicating liquors, wine, or beer, or to be placed under reasonable and suitable preventive and educational probationary conditions as determined by the court. As the driver, Jose is also violating Ark. Code Ann. § 23-13-258(a)(1)(C) (Michie 1993), which prohibits "[c]onsumption of or possession of an intoxicating liquor, regardless of its alcoholic content,...while in physical control of...a motor vehicle." This constitutes a misdemeanor punishable by a fine between $200 and $1,000. If Carlos furnishes the alcohol to TJ, he is guilty of knowingly furnishing an intoxicating liquor to a minor, a misdemeanor punishable by a fine of up to $500 or up to 10 days imprisonment or both, and contributing to the delinquency of a minor, a Class A misdemeanor. Ark. Code Ann. §§ 3-3-202, 5-27-205 (Michie 1993). Carlos and TJ may be guilty of public intoxication, a Class C misdemeanor. Ark. Code Ann. § 5-71-212 (Michie 1993).

6. **Is Dr. Melrose committing any violation by prescribing painkillers without conducting an examination or determining need?**

Dr. Melrose is violating not only state but federal law. Under U.S. law 21 U.S.C.A. § 829 (West 1993), a physician must have a legitimate medical purpose for dispensing drugs, and the act of dispensing or prescribing drugs should be within the usual course of professional practice. U.S. v. Varma, 691 F.2d 460 (1982); U.S. v. Jamieson, 605 F.Supp. 119 (1985). If Dr. Melrose does not determine a legitimate medical need before prescribing the drugs, he is violating this section and his conduct constitutes unprofessional conduct under Ark. Code Ann. § 17-93-409(5) (Michie 1993). Dr. Melrose risks suspension or revocation of his license. Since the prescription is not valid under these circumstances, Dr. Melrose is violating Ark. Code Ann. § 5-64-308 (Michie 1993), which prohibits dispensing controlled substances without a written prescription, and § 5-64-401(a) (Michie 1993), which prohibits manufacturing or delivering or possessing with intent to manufacture or deliver a controlled substance.

Dr. Melrose's patients, if they do not provide to him a bona fide reason for needing the painkillers, may also be breaking the law. Ark. Code Ann. § 5-64-403(a)(2) (Michie 1993) states: "It is unlawful for any person to knowingly or intentionally to acquire or obtain possession of a controlled substance by misrepresentation, fraud, forgery, deception, subterfuge, or theft." Federal law 21 U.S.C.A. § 843 (West 1993) likewise prohibits knowingly or unknowingly acquiring possession of a controlled substance by misrepresentation, fraud, forgery, deception, or subterfuge and 21 U.S.C.A. § 844

(West 1993) prohibits simple possession of a controlled substance without a valid prescription.

7. **Is Danielle violating any law by taking only one or two pills from someone else's prescription?**

Danielle is violating several state and federal laws. First, she is committing theft under Ark. Code Ann. § 5-36-103(a)(2) (Michie 1993), which states: "A person commits theft of property if he knowingly takes...the property of another person, with the purpose of depriving the owner thereof." The code defines theft of property as a Class A misdemeanor if the value of the property is $200 or less; a Class C felony if the value is between $200 and $2500; and a Class B felony if the value is $2500 or more. Under Ark. Code Ann. § 5-36-102(c)(2) (Michie 1993), "[a]mounts involved in theft committed pursuant to one (1) scheme or course of conduct, whether from one or more persons, may be aggregated in determining the grade of the offense." Therefore, the value of all the pills Danielle takes may be added together to determine the grade of offense she is committing.

More seriously, Danielle is violating Ark. Code Ann. § 5-64-308 (Michie 1993), which prohibits dispensing controlled substances without a written prescription, and § 5-64-401(a) (Michie 1993), which prohibits manufacturing or delivering or possessing with intent to manufacture or deliver a controlled substance. Ark. Code Ann. § 5-64-403(2) (Michie 1993) provides: "It is unlawful for any person knowingly or intentionally, to acquire or obtain possession of a controlled substance by misrepresentation, fraud, forgery, deception, subterfuge, or theft." She is also violating U.S. law under 21 U.S.C.A. § 843 (West 1993), which prohibits knowingly or unknowingly acquiring possession of a controlled substance by misrepresentation, fraud, forgery, deception, or subterfuge, and 21 U.S.C.A. § 844 (West 1993), which prohibits simple possession of a controlled substance unless such substance was obtained by prescription. The seriousness of her crime under these drug control codes will depend on the type of drugs she takes from the customers' prescriptions and how she uses them.

8. **Is Renee breaking state law even though she is not selling the drugs herself?**

Even though she is not selling the drugs directly, Renee is violating several state and federal laws. She is violating Ark. Code Ann. § 5-64-308 (Michie 1993), which prohibits dispensing controlled substances without a written prescription, and § 5-64-401(a) (Michie 1993), which prohibits manufacturing or delivering or possessing with intent to manufacture or deliver a controlled substance. Furthermore, Ark. Code Ann. § 5-64-406 (Michie 1993) provides that anyone who violates § 5-64-401(a) by distributing a controlled substance to a person under 18 years of age who is at least three years her junior is punishable by the fine authorized by

the appropriate subsection of § 5-64-401, by a term of imprisonment up to twice that authorized by the appropriate subsection of § 5-64-401, or both. Such fines and terms vary according to the type and quantity of drugs involved. In addition, Ark. Code Ann. § 5-64-411 (Michie 1993) provides that any person convicted of selling, dispensing or distributing a controlled substance within 1,000 feet of a park, school, skating rink or youth club may be subject to an enhanced sentence of an additional 10 years imprisonment.

Renee's involvement of her young daughter in drug trafficking is a serious matter as well. Her behavior may constitute child neglect as defined under Ark. Code Ann. § 9-30-103(5)(A)(i) and (iii) and (5)(B) (Michie 1993): "'Neglect' means: [f]ailure to provide, by those legally responsible for [t]he care and maintenance of the child and the proper or necessary support or [m]edical, surgical, or any other care necessary for his well-being; or [a]ny maltreatment of the child. The term includes both acts and omissions." Using a child as a drug courier shows a lack of proper care and maltreatment and renders the child eligible for social services under Ark. Code Ann. § 9-16-106 (Michie 1993); because of the danger of her situation, the child might even be taken into protective custody under Ark. Code Ann. § 12-12-516 (Michie 1993), which provides that a child may be temporarily removed from the custody of the parent or guardian without the parent or guardian's consent if the circumstances are such that continuing in the care and custody of the parent presents an immediate danger of maltreatment, or § 9-27-313, which provides that a juvenile may be taken into custody by an authorized official "if there are clear, reasonable grounds to conclude that the juvenile is in immediate danger and that removal is necessary to prevent serious harm from his surroundings...and if parents...have not taken action necessary to protect the juvenile from danger...." In addition, by causing her daughter to violate state and federal drug control laws, Renee is violating Ark. Code Ann. § 5-27-205 (Michie 1993), contributing to the delinquency of a minor, a Class A misdemeanor punishable by a sentence of up to one year. She is also violating Ark. Code Ann. § 5-27-222 (Michie 1993), neglect of a minor resulting in delinquency; this misdemeanor is punishable by a fine of up to $250.

Renee is also violating similar federal statutes such as 21 U.S.C.A. § 841 (West 1993), prohibiting possession of a controlled substance with the intent to manufacture, distribute or dispense such substance; 21 U.S.C.A. § 844 (West 1993), prohibiting simple possession of a controlled substance; and 21 U.S.C.A. § 861 (West 1993), prohibiting the knowing and intentional use of any person under 18 years of age to violate any federal drug control provision.

If Renee is participating in a drug conspiracy, she may also be violating federal law under 18 U.S.C.A. § 371 (West 1993), which prohibits conspiracy to commit any offense against the

United States, and 21 U.S.C.A. § 846 (West 1993), which prohibits any attempt or conspiracy to commit any violation of federal drug-control statutes.

In addition, Renee could receive heavier sentencing under federal statutes. Under 21 U.S.C.A. § 859 (West 1993), the distribution of a controlled substance to a person under 21 years of age is subject to increased penalties. The United States expressed its concern with the importance of protecting children from drug trafficking under 21 U.S.C.A. § 860 (West 1993), which imposes heavier prison sentences in cases involving the distribution or manufacture of controlled substances in the proximity of schools, playgrounds, or youth centers. 18 U.S.C.A. App. 4 § 3B1.3 (West 1993) also provides for increased sentences in cases of abuse of position of trust, as in a drug trafficking defendant's involvement of her young daughter in the drug trade. U.S. v. Ledesma, 979 F.2d 816 (1992).

9. **Did Jim violate any law other than those regarding controlled substances?**

Jim and Andre are both violating several laws other than those regarding controlled substances. Hypodermic syringes and needles are included in the definition of drug paraphernalia given in Ark. Code Ann. § 5-64-101(v)(11). Under Ark. Code Ann. § 5-64-403(c)(1) (Michie 1993), "[i]t is unlawful for any person to use, or possess with intent to use drug paraphernalia to...inject, ingest, inhale, or otherwise introduce into the human body a controlled substance.... Any person who violates this section is guilty of a Class C felony." Under subsection (c)(2), it is also unlawful to deliver or possess with intent to deliver such paraphernalia. In addition, Jim and Andre may be guilty of public intoxication, a Class C misdemeanor which includes the offense of appearing in public manifestly under the influence of alcohol or a controlled substance. Ark. Code Ann. § 5-71-212 (Michie 1993).

If he is aware that he carries the human immunodeficiency virus (HIV), Jim is guilty under Ark. Code Ann. § 5-14-123(b) (Michie 1993) of the Class A felony of exposing another person to HIV. The section states: "A person commits the offense of exposing another to HIV if the person knows he or she has tested positive for HIV and exposes another person to such viral infection through the parenteral transfer of blood...." A Class A felony is punishable by a sentence of not less than six years nor more than 30 years. Ark. Code Ann. § 5-4-401 (Michie 1993).

Jim and Andre are also both guilty under Ark. Code Ann. § 5-13-210 (Michie 1993) of injecting a controlled substance into the body of another person; when the controlled substance is a Schedule I or II narcotic drug like heroin, the offense is a Class Y felony. A Class Y felony is punishable by a

sentence of not less than 10 years nor more than 40 years, or life. Ark. Code Ann. § 5-4-401 (Michie 1993).

Because the drug use leads to Jim's death, Andre may be guilty of aggravated assault, a Class D felony under Ark. Code Ann. § 5-13-204 (Michie 1993), or first-degree assault, a Class A misdemeanor under § 5-13-205 (Michie 1993). In addition, he may be charged with capital murder under Ark. Code Ann. § 5-10-101(a)(1) (Michie 1993) because the death occurred as a result of a felony violation of the Uniform Controlled Substances Act. Capital murder, a Class Y felony, is punishable by death or life imprisonment without parole. Ark. Code Ann. § 5-10-101(c) (Michie 1993).

Neither Jim nor Andre could use his intoxicated state as a defense to prosecution. Under Ark. Code Ann. § 5-2-207 (Michie 1993), self-induced intoxication is not a defense to an offense which requires capacity to form intent or to appreciate the criminality of the conduct. This section defines intoxication as "a disturbance of mental or physical capacities resulting from the introduction of alcohol, drugs, or other substances into the body." Voluntary intoxication is no longer available as a defense to criminal prosecutions. White v. State, 290 Ark. 130, 717 S.W.2d 784 (1986); Sullinger v. State, 310 Ark. 690, 840 S.W.2d 797 (1992); Spohn v. State, 310 Ark. 500, 837 S.W.2d 873 (1992).

10. **Has the bartender or the owner at Bulldog's Bar and Grill violated any law?**

Under Ark. Code Ann. § 3-3-209 (Michie 1993), it is a misdemeanor for a person "to sell, give away, or dispose of intoxicating liquor to a habitual drunkard or an intoxicated person." This misdemeanor is punishable by a fine of $100 to $250 for first-time offenders; second-time offenders may be fined $250 to $500, imprisoned in the county jail for six months to one year, or both. However, a person who is injured in a collision with a car being driven by a drunken driver has no cause of action against the tavern keeper whose unlawful sale of liquor to the offending driver brought about her intoxication. Carr v. Turner, 238 Ark. 889, 385 S.W.2d 656 (1965).

Lesson 2

CRIMINAL JUSTICE STATISTICS: DRUG AND ALCOHOL RELATED OFFENSES

UNIFORM CRIME REPORT DATA OF 1990--CRIME IN THE UNITED STATES

According to the Uniform Crime Report of 1990, 68% of the drug abuse violators were arrested for possession of heroin, cocaine or a narcotic derivative. A little over 31% of drug arrests were for the sale and manufacture of drugs.

Out of the 14,195,100 total number of arrests that occurred in 1990, drug abuse violations accounted for 1,089,500, driving under the influence comprised 1,810,800, and liquor law violations represented 714,700 of the total.

1981-1990 Ten Year Trend

Arrests for Drug Abuse Violations

In 1981, the total number of arrests for drug abusers under the age of 18 was 69,383. On the other hand in 1990, the total number was 50,435. This represents a 27.3% **decrease** in the number of arrests for persons under the age of 18. However, the number of arrests for persons over the age of 18 represent an 89.9% **increase** from 332,733 in 1981 to 631,932 in 1990.

Liquor Law Violations

For persons over the age of 18, the number of arrests for liquor law violations have dramatically **increased** to 61% from 218,079 in 1981 to 351,064 in 1990. However, the number of arrests for persons under the age of 18 has decreased to less than 0.4%.

♦ ♦ ♦

Criminal Victimization in the United States, 1990
A National Crime Victimization Survey Report, February, 1992

Percent Distribution of Victimizations by Perceived Drug or Alcohol Use by Offender:

- Of the **130,260** total rapes reported by victims to police, **49.8%** were believed to be committed by someone under the influence of drugs or alcohol.
- Of a total of **1,149,710** reported robberies, **24.2%** involved an offender under the influence of drugs or alcohol.
- Of **1,600,760** aggravated assaults committed **40%** were committed by people under the influence of drugs.
- Of the **3,128,130** simple assaults reported, **32.9%** were perpetrated by someone perceived to be under the influence of drugs or alcohol.

Lesson 4

FEDERAL SCHEDULE (answers to handout 3)

DRUG	SCHEDULE
heroin	schedule 1
beer	not a scheduled drug
vodka	not a scheduled drug
nitrate	not a scheduled drug
amphetamines	schedule 3
caffeine	not a scheduled drug
marijuana	schedule 1
crack	schedule 2
scotch	not a scheduled drug
MSG	not a scheduled drug
cocaine	schedule 2
glue	not a scheduled drug

FEDERAL PENALTIES BY SCHEDULE FOR POSSESSION

SCHEDULE	MAX. PRISON	MAX. FINE	MAX. TOTAL
schedule 1	15 years	$25,000	15yrs + $25,000
schedule 2	15 years	$25,000	15yrs + $25,000
schedule 3	5 years	$15,000	5yrs + $15,000
schedule 4	3 years	$10,000	3yrs + $10,000
schedule 5	1 year	$ 5,000	1yr + $ 5,000
unscheduled drug	n/a	n/a	n/a

The penalty doubles if the defendant has a previous conviction for a schedule law violation.

In order for a drug to be a narcotic, it must be a derivative of opium. All narcotics contain opium or opium derivatives, ie: heroin.

Malt beverages such as beer are not included in the scheduling process. They are controlled by liquor laws.

Information from 21 U.S.C.A. § 841 (West 1981).

States	Heroin	Cocaine	Crack	Marijuana	Amphetamine
Alabama	sch 1	sch 2	sch 2	sch 1	sch 3
Alaska	sch 1A	sch 2A	sch 2A	sch 3A	sch 4A
Arizona	sch 1	sch 2	sch 2	sch 1	sch 2
Arkansas	sch 1	sch 2	sch 2	sch 1	not listed
California	sch 1	sch 2	sch 2	sch 1	sch 2
Colorado	sch 1	sch 2	sch 2	sch 1	sch 2
Connecticut	sch 1	sch 2	sch 2	sch 1	sch 3
Delaware	sch 1	sch 2	sch 2	sch 1	sch 2
D.C.	sch 1	sch 2	sch 2	sch 2	sch 2
Florida	sch 1	sch 2	sch 2	sch 1	sch 2
Georgia	sch 1	sch 2	sch 2	sch 1[1]	sch 2
Hawaii	sch 1	sch 2	sch 2	sch 1	sch 2
Idaho	sch 1	sch 2	sch 2	sch 1	sch 2
Illinois	sch 1	sch 2	sch 2	listed under its act: the Cannabis Control Act, 56 1/2 §701 et seq	sch 2
Indiana	sch 1	sch 2	sch 2	sch 1	sch 2
Iowa	sch 1	sch 2	sch 2	sch 1	sch 2
Kansas	sch 1	sch 2	sch 2	sch 1	sch 1
Kentucky	sch 1	sch 2	sch 2	sch 1	sch 2
Louisiana	sch 1	sch 2	sch 2	sch 1	sch 2
Maine[2]	sch W	sch W	sch W	sch W & Z	sch W
Maryland	sch 1	sch 2	sch 2	sch 1	sch 1
Massachusetts[3]	class A	class B	class B	class D	class B
Michigan	sch 1	sch 2	sch 2	sch 1	sch 2
Minnesota	sch 1	sch 2	sch 2	sch 1	sch 2
Mississippi	sch 1	sch 2	sch 2	sch 1	sch 2
Missouri	sch 1	sch 2	sch 2	sch 1	sch 2
Montana	sch 1	sch 2	sch 2	sch 1	sch 2

[1] Must have more than 15% THC (tetrahydrocannobinol), the chemical in the cannabis plant.

[2] Maine schedules its drugs under an alphabetical category: W, X, Y & Z. The schedules are similar to other state categorizations.

[3] Massachusetts calls their schedules classes, but they are the same thing.

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States	Heroin	Cocaine	Crack	Marijuana	Amphetamine
Nebraska	sch 1	sch 2	sch 2	sch 1	sch 2
Nevada[4]	sch 1	sch 2	sch 2	sch 1	sch 3
New Hampshire	sch 1	sch 2	sch 2	sch 1	sch 3
New Jersey	sch 1	sch 2	sch 2	sch 1	sch 3
New Mexico	sch 1	sch 2	sch 2	sch 1 & 2	sch 2
New York	sch 1	sch 2	sch 2	sch 1	sch 2
North Carolina	sch 1	sch 2	sch 2	NC has a sixth schedule which incl. marijuana	sch 2
North Dakota	sch 1	sch 2	sch 2	sch 1	sch 2
Ohio	sch 1	sch 2	sch 2	sch 1	sch 2
Oklahoma	sch 1	sch 2	sch 2	sch 1	sch 2
Pennsylvania	sch 1	sch 2	sch 2	sch 1	sch 2
Puerto Rico	sch 1	sch 2	sch 2	sch 1	sch 3
Rhode Island	sch 1	sch 2	sch 2	sch 1	sch 2
South Carolina	sch 1	sch 2	sch 2	sch 1	sch 2
South Dakota	sch 1	sch 2	sch 2	sch 1	sch 2
Tennessee	sch 1	sch 2	sch 2	sch 2, but only for certified patients under the Controlled Substances Therapeutic Research Act	sch 2
Texas	sch 1	sch 2	sch 2	sch 1	sch 2
Utah	sch 1	sch 2	sch 2	sch 1	sch 2
Vermont	sch 1	sch 2	sch 2	sch 1	sch 3
Virginia	sch 1	sch 2	sch 2	not listed, but liquid marijuana or hashish oil is listed as sch 1	sch 2
Washington	sch 1	sch 2	sch 2	sch 1	sch 2
West Virginia	sch 1	sch 2	sch 2	sch 1	sch 2
Wisconsin	sch 1	sch 2	sch 2	sch 1	sch 2

[4] While Nevada does not specifically name drugs under its five schedules, but instead lists the specific tests to determine under which schedule a drug belongs § 453.2182 says that the state will use 21 USC as a guide for scheduling. The state merely reserves the right to reschedule any controlled substance as it sees fit according to the tests set out in 453.166, et. seq.

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States	Heroin	Cocaine	Crack	Marijuana	Amphetamine
Wyoming	sch 1	sch 2	sch 2	sch 1	sch 2

OFFENSE/SUBSTANCE	SENTENCE
First Offense: Cocaine - Possession With Intent To Distribute - 5 kg	• imprisonment for 40 years to life, and • fine not to exceed $250,000
First Offense: Trace of Heroin - Possession of 1 kg or more of a mixture with a small, but detectable amount of heroin	• imprisonment for 3 to 10 years with the possibility of •a fine of $10,000
First Offense: Codeine - Possession - 200 mg	• imprisonment for 3 to 10 years with the possibility of • a fine not to exceed $10,000
Second Offense: Marijuana - Possession - 50 kg	• imprisonment for 6 to 20 years with the possibility of • a fine not to exceed $20,000
Third Offense - Methamphetamine - Possession - 100 g	• imprisonment for 6 to 20 years with the possibility of • a fine not to exceed $20,000

Cite: Ark Stat. Ann. §5-64-401

Current Federal Penalties:

Group 1 and Group 2: . . . person shall be sentenced to prison which may not be less than 10 years or more than life and a fine not to exceed 4 million dollars.

Group 3: . . . person shall be sentenced to a term of imprisonment of not more than one year, a fine not exceed $250,000 in the case of an individual.

Group 4: . . . person shall be sentenced to a term of imprisonment of not more than 10 years, a fine not to exceed $500,000.

Group 5: . . . person shall be sentenced mandatory life imprisonment without release and fine not to exceed $8 million.

Cite: 21 U.S.C. § 841 (1992).

1. **What does DWI stand for?**

DWI stands for driving while intoxicated.

2. **What does DUI stand for?**

DUI stands for driving under the influence. Under §5-65-102 "intoxicated" means "influenced or affected by the ingestion of alcohol, to such a degree that the driver's reactions, motor skills, and judgment are substantially altered and the driver constitutes a clear and substantial danger of physical injury or death to himself and other motorists or pedestrians. Under §5-65-103 it is unlawful for a person to drive while intoxicated or with a blood alcohol content of 0.10% or more.

3. **In terms of penalties, is being convicted of DWI more serious than being convicted of DUI?**

Under Arkansas law there is no distinction between DWI or DUI in terms of penalties.

4. **What are the penalties for being convicted of DWI? DUI?**

CONVICTION	PUNISHMENT
First Conviction Section 5-65-104 to 111; 18 years +	♦ imprisonment for one day to one year, except the court may order public service instead if the court explains its rationale in writing, and ♦ license suspended for 90 to 120 days.
First Conviction Section 5-64-710 and 27-16-914	♦ license suspended for 12 months or until person reaches 18, whichever is longer, and ♦ fine of $150 to $1000.
Second Conviction within 3 years; 18 years +	♦ imprisonment for 7 days to 1 year, and ♦ revocation of license for 1 year to 16 months.
Second Conviction within 5 years; under 18	♦ license suspended for 12 months or until person reaches 18, whichever is longer, and ♦ fine of $400 to $3000.
Third Conviction within 3 years; 18 years +	♦ imprisonment for 90 days to 1 year, and ♦ license revocation for 2 years to 30 months.

Third Conviction within 5 years; under 18	• license suspended for 12 months or until person reaches 18, whichever is longer, and • fine of $900 to $5000.
Fourth Conviction within 3 years; 18 years +	• imprisonment for one year to six years, and • license revocation for at least 3 years

** In extreme circumstances it is possible to get a restricted permit that would allow one to drive to school or work if absolutely no other transportation is available.

5. **What is the penalty for refusing to submit to a breathalyzer test upon a police officer's reasonable request?**

Under §5-65-202 any person who operates a motor vehicle or is in actual physical control of a vehicle shall be deemed to have given consent to breathalyzer test. Under §5-65-205 refusal to submit to the test can result in suspension of operator's license: 6 months to 1 year for a first refusal; 1 year to 16 months if previously refused within 3 years, convicted of DWI or had a BAC of 0.10 or more within 3 years of refusal; 2 years to 30 months if refused 2 or more times within 3 years of refusal, convicted of 2nd offense of DWI or 0.10 BAC or more within 3 years of refusal. One's license is revoked for a third refusal within 3 years, a third DWI offense or a BAC of 0.10 or more within 3 years.

6. **What must a person's blood alcohol content (BAC) be before he/she is legally intoxicated?**

Under §5-65-103 in order for a person to be legally intoxicated his/her BAC must be 0.10%.

7. **The legal limit for blood alcohol content is lower for persons under the legal drinking age of 21. True or False?**

False. Arkansas law does not distinguish between persons under 21 and those over 21 for BAC.

8. **An open container of alcohol can be in your car if you are 21 or over. True or False?**

There is no open container law in Arkansas.

§3-3-203 its unlawful for a person under 21 to purchase or possess intoxicating liquor. If convicted it is a misdemeanor with a fine of $10-$500.

Lesson 9

Although the drinking age is 21 in all 50 states (meaning specifically that the sale of alcohol to minors is prohibited), the laws on teenage drinking vary from state to state. The laws vary in regard to whether they include prohibition of the purchase of alcohol, the attempt to purchase alcohol, the consumption of alcohol and the possession of alcohol. According to the **March 11, 1993 Safety Recommendation report of the National Transportation Safety Board,**

- Five states (DE, FL, MT, NH & NY) and the District of Columbia do not prohibit the purchase of alcohol by minors.
- West Virginia and the District of Columbia do not prohibit public possession of alcohol by minors.
- 23 states (AK, AR, DE, DC, FL, GA, RI, IL, IA, LA, ME, MD, MI, MS, MT, NV, NH, NY, SC, TX, UT, VT, VA) do not prohibit minors from attempting to purchase alcohol.
- 21 states (AR, CO, CT, FL, GA, HI, IA, KY, LA, MA, MS, MO, NE, NH, NM, NC, OR, SC, VT, WV, WY) do not prohibit alcohol consumption by minors.
- 16 states (AR, CA, CO, HI, KY, LA, ME, MI, NM, NY, NC, OK, SD, VA, WA, WY) do not prohibit minors from misrepresenting their age in order to purchase alcohol.
- 19 states (AL, AR, CO, DE, DC, IA, KS, LA, MD, MN, MT, NJ, OR, PA, SC, UT, VA, WA, WI) do not prohibit minors from presenting false ID to purchase alcohol.

In addition, most states do no prohibit minors from driving with alcohol in their blood unless their blood alcohol content reaches the adult legal limit, which is .10 percent in most states. Fifteen states, however, have amended their laws to lower for minors the permitted blood alcohol content while driving. These laws vary according to the age under which minors must be in order for the lower blood alcohol content to apply. Here is the layout for state laws on blood alcohol content for minors while driving:

0.00 BAC	0.01 BAC	0.02 BAC	0.04 BAC	0.05 BAC	0.06 BAC
AZ (<21)	NJ (<21)	ME (<21)	RI (<21)	CA (<18)	GA (<18)
NC (<19)		MD (<21)	NH (<21)	NM (<18)	
OR (<21)		OH (<18)			
UT (<21)		VT (<18)			
WI (<18)					

A number of states have tried to cut down on teenage driving accidents by implementing nighttime driving restrictions. The following states have some form of curfew for teenage driving:

ID: minors <16 can drive during the daytime only

IL: minors <17 cannot drive between 11pm-6am Mon-Thur and 12am-6am Fri-Sun
LA: minors <15 cannot drive between 11pm-6am Mon-Thur and 12am:6am Fri-Sun
MD: minors <16 cannot drive between 12am-5am
MA: minors <18 cannot drive between 1am-4am
NY: minors <18 cannot drive between 9pm-5am
PA: minors <18 cannot drive between 12am-5am
SD: minors <16 cannot drive between 8pm-6am.